

21st CENTURY RADIO VENTURES, INC.
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September 3, 1996

Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

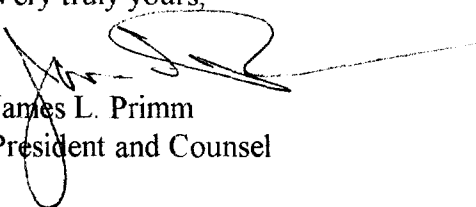
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re: MM Docket No. 95-83, RM-8634; In the Matter of Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Littlefield, Wolfforth and Tahoka, Texas); Motion to Dismiss Unauthorized Comments of Lee W. Shubert Trustee

Please find enclosed the original and four copies of the above referenced pleading. Please also deliver one copy to Pam Blumenthal at the Allocations Branch, Room 8308. In addition, please find enclosed a copy marked stamp and return. Please return that copy in the enclosed postage paid envelope.

Please contact the undersigned if you have any questions.

Very truly yours,


James L. Primm
President and Counsel

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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SEP 4 1996

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In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments, FM Broadcast)
Stations (Littlefield, Wolfforth and)
Tahoka, TX)

MM Docket No. 95-83
RM-8634

TO: Chief, Allocations Branch

MOTION TO DISMISS UNAUTHORIZED COMMENTS OF LEE W. SHUBERT.
TRUSTEE

21st Century Radio Ventures, Inc. ("Petitioner"), petitioner in the above captioned proceeding, hereby submits this motion to dismiss the unauthorized comments of Lee W. Shubert Trustee (the "Trustee").

The Trustee of KLLL-FM, Lubbock, Texas, again filed unauthorized comments in the above captioned proceeding.¹ On May 17, 1996, the Commission sought additional comments in the above captioned proceeding on certain limited matters. Both Petitioner and Trustee filed comments in that proceeding. The Commission has not authorized or requested any additional comments and should dismiss this fourth unauthorized pleading of the Trustee.

The Motion of the Trustee adds nothing that is not already in the record before

¹ The Trustee previously filed other unauthorized pleadings in this proceeding: Reply Comments of Lee W. Shubert, Trustee, dated August 25, 1995; Supplement to Reply Comments of Lee W. Shubert, Trustee, dated November 8, 1995; Opposition to Motion to Dismiss Supplement to Reply Comments of Lee W. Shubert, Trustee, dated December 14, 1995.

the Commission. In essence, the Trustee calls attention to the fact that Petitioner sought an extension of its construction permit. Both the date of the expiration of the construction permit and the fact that Petitioner sought an extension thereof may be found by a review of the Commission's public records.

Petitioner would not even dignify the Trustee's unauthorized and hollow motion with a response, except that that the Trustee's unauthorized pleading would attempt to muddy the record. Although the Trustee notes correctly that the predicted 70 dBu contour of Petitioner, using Wolfforth's coordinates as set forth in the Commission's data base, will cover only 45% of the Lubbock urbanized area, thereby falling outside of the 50% threshold set by Headland, 10 FCC Rcd 10352 (1995), he notes that Petitioner sought no supplemental comment on the question of whether the Headland criteria apply to the instant case and that the matter is "outside the scope of this proceeding". Of course, no further action was necessary by Petitioner where, as here, the very heart of the Commission's Request for Supplemental Comments was the Headland criteria. Petitioner, relying on a study provided by one of the nation's premier radio consulting engineering firms (duTreil, Lundin & Rackley), merely pointed out that the criteria set forth in Headland should not apply at all because the proposed move to Wolfforth did not meet the threshold test set forth by the Commission.

The statements in this Motion to Dismiss Unauthorized Comments of Lee W. Shubert Trustee are true, complete and correct to the best of my knowledge and belief


and are made in good faith.

Respectfully submitted,

21st Century Radio Ventures, Inc.

Date: 9/3/96

By:

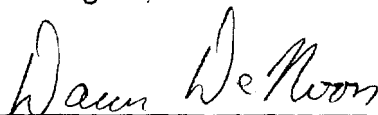

James L. Primm
President and Counsel

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CERTIFICATE OF SERVICE

I, Dawn E. DeNoon, hereby certify that on this 3rd day of September, 1996, I caused to be delivered by first class mail, postage prepaid, copies of the foregoing Motion to Dismiss Unauthorized Comments of Lee W. Shubert Trustee, to the following at the addresses listed below:

William R. Richardson, Jr.
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037-1420



Dawn E. DeNoon